

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR-12-46-GF-BMM-01

Plaintiff,

vs.

JOSHUA LAWRENCE EAGLE,

Defendant.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

I. Synopsis

Mr. Eagle was accused of violating his conditions of supervised release by failing to: report to his probation officer as directed, notify his probation officer prior to a change of address, participate in substance abuse testing, and participate in substance abuse treatment. Mr. Eagle's supervised release should be revoked. He should be sentenced to three months, with 21 months of supervised release to follow. A condition should be added requiring him to spend 180 days in a residential reentry center.

II. Status

In September 2012, Mr. Eagle pleaded guilty to Burglary. (Doc. 23.)
United States District Court Judge Sam E. Haddon sentenced Mr. Eagle to 12

months in custody and three years of supervised release. (Doc. 28.)

Mr. Eagle began his first term of supervised release on February 25, 2014. On September 25, 2014, the United State Probation Office filed a petition asking the Court to revoke Mr. Eagle's supervised release. (Doc. 31.) On November 6, 2014, United States District Court Judge Brian Morris revoked Mr. Eagle's supervised release and continued disposition of the matter for 90 days to allow Mr. Eagle to demonstrate that he could comply with the conditions of his release. (Docs. 40, 51.) Mr. Eagle was to be released from custody as soon as arrangements could be made for his transportation home.

On November 19, 2014, the parties filed a joint status report to notify the Court that Mr. Eagle remained in custody and there was no viable option to transport him home. (Doc. 41.) Mr. Eagle ultimately returned home on December 19, 2014. (Doc. 51.) On April 23, 2015, Judge Morris revoked Mr. Eagle's supervised release and sentenced him to six months of custody, followed by 24 months of supervised release. (Doc. 48.) Mr. Eagle began his current term of supervised release on August 21, 2015. (Doc. 51.)

Petition

On October 7, 2015, the United States Probation Office filed a petition asking the Court to revoke Mr. Eagle's supervised release. (Doc. 51.) Based on

the petition, the undersigned issued a warrant for Mr. Eagle's arrest. (Doc. 52.)

The Probation Office accused Mr. Eagle of violating Standard Condition 2 of his supervised release by failing to report to his probation officer as directed. The Probation Office accused Mr. Eagle of violating Standard Condition 6 of his supervised release by failing to notify his probation officer prior to a change in residence. The Probation Office accused Mr. Eagle of violating Special Condition 1 of his supervised release by failing to participate in substance abuse testing. The petition alleged Mr. Eagle violated Special Condition 2 of his supervised release by failing to participate in substance abuse treatment. (Doc. 51.)

Initial appearance

Mr. Eagle appeared before the undersigned on October 13, 2015, in Great Falls, Montana, for an initial appearance. Federal Defender Henry Branom accompanied him at the initial appearance. Assistant United States Attorney Bryan Dake represented the United States.

Mr. Eagle said he had read the petition and understood the allegations. Mr. Eagle waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

On October 13, 2015, Mr. Eagle appeared with Mr. Branom before the

undersigned for a revocation hearing. Mr. Dake appeared on behalf of the United States. Mr. Eagle admitted that he violated the conditions of his supervised release. The violations are serious and warrant revocation of Mr. Eagle's supervised release.

Mr. Eagle's violation grade is Grade C, his criminal history category is I, and his underlying offense is a Class C felony. He could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for 30 months, less any custody time imposed. The United States Sentencing Guidelines call for three to nine months in custody.

The parties jointly recommended a sentence at the low end of the guideline range, with a term of supervised release to follow. The parties noted the violations are frustrating because they would be so easy to remedy. Mr. Eagle addressed the Court and said he doesn't know what is going on with him.

III. Analysis

Mr. Eagle's supervised release should be revoked because he admitted violating its conditions. Pursuant to the parties' joint recommendation, Mr. Eagle should be sentenced to three months of custody, with 21 months of supervised release to follow. This sentence would be sufficient given the serious violation of the Court's trust, but it would not be greater than necessary. A condition should be

added to require Mr. Eagle to spend 180 days in a residential reentry center.

IV. Conclusion

Mr. Eagle was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider Mr. Eagle's objection, if it is filed within the allotted time, before making a final determination on whether to revoke Mr. Eagle's supervised release and what, if any, sanction to impose.

The Court FINDS:

1. Joshua Lawrence Eagle violated Standard Condition 2 of his supervised release by failing to report to his probation officer as directed.
2. Joshua Lawrence Eagle violated Standard Condition 6 of his supervised release by failing to notify his probation officer of his updated address.
3. Joshua Lawrence Eagle violated Special Condition 1 of his supervised release by failing participate in substance abuse testing as directed.
4. Joshua Lawrence Eagle violated Special Condition 2 of his supervised release by failing to participate in substance abuse treatment as directed.

The Court RECOMMENDS:

The District Court should enter the attached Judgment,

revoking Mr. Eagle's supervised release and committing Mr. Eagle to the custody of the United States Bureau of Prisons for three months. He should be sentenced to 21 months of supervised release. The conditions previously imposed should be continued, and a condition requiring Mr. Eagle to spend 180 days at a residential reentry center should be added.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

Dated the 15th day of October, 2015.


John Johnston
United States Magistrate Judge